REMARKS

Claims 1-16, 19-20, and 25-35 are pending in the Application. Claims 1-16, 19-20, and 25-35 stand rejected. Claims 25-30 were previously withdrawn via restriction. Applicants have canceled claims 25-30 without prejudice. Examiner Tang is respectfully urged to reconsider the application and to withdraw the rejections.

Interview

Applicants' undersigned attorney wishes to thank Examiner Tang for the opportunity, on June 9, 2009, to conduct a telephonic interview regarding the pending Application. During the interview, the cited art and Applicants' proposed amendments were discussed. The contents of the interview are further addressed in the remarks below. Should the examiner have any questions or concerns that might be efficiently resolved by way of a telephonic interview, the examiner is invited to call Applicants' undersigned attorney at 206-903-2474.

Claim Rejections - 35 USC § 101

Claims 1-16, 19-20, 25-35 stand rejected under 35 U.S.C. § 101. Applicants respectfully traverse the rejection.

Claim 1 stands rejected because the Examiner contends that paragraphs 0013 and 0014 of the instant application state that the method is embodied in computer software and is neither tied to another statutory class nor does it transform underlying subject matter to a different state or thing. Applicants have amended claim 1 to recite that the method is carried out by a computing device comprising a hardware processor and memory. For support, Applicants direct the Examiner to paragraph 0029 of the specification which states, "Such a system will include one or more microprocessors, a volatile memory area, a persistent memory area, and one or more mass storage devices. One or more sections of computer program code, or software, either in a compiled or an interpreted form, will run, for instance, in one of the memory areas, to cause the microprocessor(s) to perform the sequences of operations and techniques described below." Accordingly, Applicant respectfully submits that claims 1-7 and 31 recite statutory subject

matter. During the interview, the Examiner agreed that the amendment would overcome the 35 U.S.C. § 101 with respect to claim 1.

Claim 8 stands rejected because the Examiner contends that paragraph 0102 of the instant application states that the method is to be carried out on a medium including the Internet and is not tangible. Applicants point out that the claim recites "storage medium." While paragraph 0102 states that the contents of a computer readable medium can be downloaded from the Internet, this only states one possible method of downloading content. The claim recites "storage medium" and thus is not directed to transitory signals. As indicated in paragraph 0102, the computer implemented methods of the present disclosure may be carried out on computer readable medium, such as a medium stored persistently in a computer or stored and installed from a CD-ROM. Applicant respectfully submits that one of skill in the art knows that a storage medium, such as a CD-ROM or persistent computer storage (e.g. computer memory), persistently stores tangible media. To clarify the claim, Applicants have amended claim 8 to recite "stored persistently in a computer." Applicants respectfully submit that claim 8 recites statutory subject matter, and request that the 35 USC § 101 rejection be withdrawn as to claims 8-14 and 32. During the interview, the Examiner agreed that the amendment would overcome the 35 U.S.C. § 101 with respect to claims 8-14 and 32.

Claim 15 stands rejected because the Examiner contends that paragraph 0039 of the instant application states that a local agent is a software module and is considered to be a program per se. Applicant has amended claim 15 to recite a hardware processor and memory. Applicants respectfully direct the Examiner to *WMS Gaming Inc. v. International Game Technology*, 184 F.3d 1339 (Fed. Cir. 1999). The *WMS Gaming* Court reasoned that "[a] general purpose computer, or microprocessor, programmed to carry out an algorithm creates 'a new machine, because a general purpose computer in effect becomes a special purpose computer once it is programmed to perform particular functions pursuant to instructions from program software.'" *Id.* (quoting *In re Alappat*, 33 F.3d 1526, 1545 (Fed. Cir. 1994)). Applicants respectfully submit that claims 15-16, 19-20, and 33-35 recite statutory subject matter. During the interview, the Examiner agreed that the amendment would overcome the 35 U.S.C. § 101 with respect to claim 15.

Claim Rejections - 35 USC § 112

Claim 8-14 stand rejected as having insufficient antecedent basis for the limitation "computer readable storage medium." Applicants direct the Examiner to paragraph 0029 of the specification which states "Such a system will include one or more microprocessors, a volatile memory area, a persistent memory area, and one or more mass storage devices. One or more sections of computer program code, or software, either in a compiled or an interpreted form, will run, for instance, in one of the memory areas, to cause the microprocessor(s) to perform the sequences of operations and techniques described below." Furthermore, the specification paragraph 102 indicates that an embodiment of a computer readable medium, such as a tangible CD-ROM or persistent computer storage, includes software code (instructions). Applicant respectfully submits that one of skill in the art knows that a storage medium, such as a CD-ROM or persistent computer storage (e.g. computer memory), is tangible and an article of manufacture. As stated in the MPEP 1302.01 para. 13.08, "exact terms need not be used in *haec verba* to satisfy the written description requirement of the first paragraph of 35 U.S.C. 112. *Eiselstein v. Frank*, 52 F.3d 1035, 1038, 34 USPQ2d 1467, 1470 (Fed. Cir. 1995); *In re Wertheim*, 541 F.2d 257, 265, 191 USPQ 90, 98 (CCPA 1976). See also 37 CFR 1.121(e) which merely requires *substantial correspondence* between the language of the claims and the language of the specification." (emphasis added). Applicants respectfully submit that sufficient basis exists for the recitation of "storage" in the claims. Without conceding the propriety of the rejection, Applicants have amended claim 8 to recite "computer readable medium stored persistently in a computer." During the interview, the Examiner agreed that the amendment would overcome the 35 U.S.C. § 112 with respect to claim 8 and request withdrawal of the 35 USC § 112 rejection of claims 8-14.

Claim Rejections - 35 USC § 102

Claims 15-16, 19-20, and 33 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Pub. No. 20020023140 (Hile). Applicants respectfully traverse the rejection.

The standard under Section 102 is one of strict identity. "Under 35 U.S.C. § 102, every limitation of a claim must identically appear in a single prior art reference for it to anticipate the

claim" (*Gechter v. Davidson*, 116 F.3d 1454, 1457 (Fed. Cir. 1997)). In addition, "[e]very element of the claimed invention must be literally present, arranged as in the claim" (*Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir. 1989)). Further, implicit in a review of an examiner's anticipation analysis is that the claim must first have been correctly construed to define the scope and meaning of each contested limitation (*Gechter v. Davidson*, 116 F.3d 1454, 1457 (Fed. Cir. 1997); *In re Paulsen*, 30 F.3d 1475, (Fed. Cir. 1994), stating for example, "to properly compare [an allegedly anticipatory prior art reference] with the claims at issue, we must construe the term 'computer' to ascertain its scope and meaning.").

According to the Abstract, Hile is generally directed to the transfer of files between two computers. A sender uses a web browser to send a request to a server over a first connection that a file is to be sent to the second computer. A transfer agent on the first computer opens a second connection to the server and transfers the file to the server. A notification is sent to the second computer that a file is to be transferred to the second computer. Thus, Hile is directed to the push transfer of a file from a first computer to a second computer.

Referring to Claim 15, the Examiner contends that Hile paragraphs 0021 and 0027 and Fig. 4 disclose a local agent comprising a task processor polling a server for a task request, the task request identifying a file in a local computer associated with the local agent, the task request generated by a remote client computer, the task request requesting a file residing on a local computer. Applicant respectfully disagrees. While the passages from Hile disclose that a transfer agent asks the application server for file transfer instructions, the citations do not disclose "the task request generated by a *remote client computer,* the task request *requesting a file residing on a local computer*" (emphasis added) as previously recited in claim 15. According to the claim, the remote client computer generates the task request which requests a file on the local computer. The transfer agent of Hile receives file transfer instructions for files to be uploaded from *the same computer* to the server. See, for example, Hile paragraph 0019 which states "the selected file must be transferred from the sender's computing device to the server." The computer receiving the file does not generate a request for a file.

For at least the above reason, the citations from Hile do not disclose claim 15. Applicants have further amended claim 15 to recite "a subsystem for causing, in response to the task request

and *a file lock mode*, the file to be uploaded to the server from the system" (emphasis added).
Support for the amendment may be found at least in the specification paragraphs 58-59. It was
agreed during the June 9 interview that such a limitation would overcome the 35 USC § 102
rejection.

Claim Rejections - 35 USC § 103

Claims 1-14, 31-32, 34, and 35 stand rejected under 35 U.S.C. 103(a) as being
unpatentable over Hile in view of U.S. Pat. No. 6,675,205 in further view of U.S. Pat. No.
7,305,381 (Poppink). Applicants respectfully traverse the rejection.

Referring to Claim 1, the Examiner contends that Hile paragraph 0014 and 82 of Fig. 4
disclose polling a server for a task request, the task request generated by a remote client
computer, the task request requesting a file residing on a local computer. Applicant respectfully
disagrees. While the passages from Hile disclose that a transfer agent asks the application server
for file transfer instructions, the citations do not disclose "the task request generated by a *remote
client computer,* the task request *requesting a file residing on a local computer*" (emphasis
added) as previously recited in claim 1. According to the claim, the remote client computer
generates the task request which requests a file on the local computer. The transfer agent of Hile
receives file transfer instructions for files to be uploaded from *the same computer* to the server.
See, for example, Hile paragraph 0019 which states "the selected file must be transferred from
the sender's computing device to the server." The computer receiving the file does not generate a
request for a file.

Meadway does not cure the deficiencies of Hile. According to the Abstract, Meadway is
directed to a peer-to-peer asynchronous file sharing service. The service performs centralized
searches based on index information transmitted by peer systems to a central site using an agent
program running on each peer and then directs the peer systems to each other for the purpose of
retrieving files. When a system containing the requested file connects to the service, the
requested file is retrieved from that system and then distributed to the other systems which had
requested the file.

In contrast, claim 1 recites a method for use by a local agent module associated with a local computer. As previously recited in the claim, the local agent polls "a server for a task request, the task request generated by a remote client computer, the task request requesting a file from the local computer." The server thus facilitates a remote user's access to local files on a local computer, without the need to directly access the local files or the local file structure. Meadway, on the other hand, teaches away from claim 1 by disclosing a centralized service that requires a comprehensive searchable index of files reported by each device. The agent disclosed in Meadway is associated with a server, retrieves file structure information, and maintains a searchable index of files (see, e.g., Meadway Col 5, Lines 10-25). In further contrast to Meadway, claim 1 recites at least three different computing devices, i.e., (1) a local computer on which a requested file resides, (2) a server, and (3) a remote client computer that requests the file on the local computer.

Applicants further submit that one of skill in the art would not be motivated to combine these two references because, considering all of the teachings of the two references, the addition of Meadway to Hile changes the principle of operation of Hile and renders Hile inoperable as modified by Meadway. As discussed above, Hile teaches a file transfer initiated by a user that wishes to send a file to another computer. In Hile, this is accomplished by having a user fill out a file "Send Form" to an application server, over a first communication link, for the files that the user wants to send or push out to a recipient (see, e.g., Fig. 3 and para 0018). Then, the selected file must be transferred, over a second communication link, from the sender's computing device to the server (see. e.g., Fig. 1 and para 0019). Thus, Hile teaches explicitly pushing a file to a known second computer. Meadway, on the other hand, requires a centralized store of source file information that maintains anonymity between sender and recipient (see. e.g., column 2 lines 25-29 "Only the central server knows the internet address and other identifying information about each contributor, and this information is stripped from each file before the file is forwarded.") This explicit teaching is in direct conflict with the teaching of Hile that requires explicit identification of a file to be transferred to a known user.

The citation from Poppink merely discloses that information may be retrieved asynchronously and does not address the deficiencies of Hile and Meadway as discussed above.

Applicants have amended claim 1 recite "an indication of a file lock mode" and "wherein a subsequent task request identifying said file is processed in accordance with said file synchronization mode." Support for the amendment may be found at least in the specification paragraphs 58-59. Similar amendments have been made to claim 8. It was agreed during the June 9 interview that such a limitation would overcome the 35 USC § 103 rejection.

For at least the above reasons, Applicant respectfully submits that the combination of Hile, Meadway and Poppink fails to disclose or suggest claim 1. Independent claim 8 recites similar elements as claim 1 and thus Hile, Meadway and Poppink fail to disclose or suggest claim 8. Since the combination of Hile, Meadway and Poppink fails to disclose all of the elements of the independent claims, dependent Claims 2-6, 9-14, 31-21, 34 and 35 cannot be rendered obvious by the cited combination per MPEP §2143.03. Applicants respectfully request reconsideration and withdrawal of the 35 USC §103 rejection.

CONCLUSION

Applicant believes that the present remarks and amendments are responsive to each of the points raised by the examiner in the Office Action. Favorable consideration and passage to issue of the application at the examiner's earliest convenience is earnestly solicited.

Should the examiner have any further suggestions for expediting the prosecution of the presently pending claims, the undersigned respectfully asks the examiner contact him at 206-903-2474.

Date: July 14, 2009   /Han Gim/
                                             Han Gim
                                             Registration No. 62,953

Woodcock Washburn LLP
Cira Centre
2929 Arch Street, 12th Floor
Philadelphia, PA 19104-2891
Telephone: (215) 568-3100
Facsimile: (215) 568-3439